

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIE STEWART,

Petitioner,

-v.-

Civil Action No.
9:09-cv-195 (GLS/VEB)

DEBORAH SCHULT

Respondent.

APPEARANCES:

OF COUNSEL:

FOR THE PETITIONER:

WILLIE STEWART
Petitioner, *Pro Se*
FCI Gilmer
P.O. Box 6000
Glennville, West Virginia 26351

FOR THE RESPONDENT:

HON. ANDREW T. BAXTER
Office of the United States Attorney
Attorney for Respondent
P.O. Box 7198
100 South Clinton Street
Syracuse, New York 13261-7198

CHARLES E. ROBERTS, ESQ.
Assistant U.S. Attorney

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Victor E. Bianchini, duly filed June 1, 2009. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed¹, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Victor E. Bianchini filed June 1, 2009 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the Amended Petition for a Writ of *Habeas Corpus* (Dkt. No. 5) is DENIED, and it is further

ORDERED, that because the Court finds Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2), no certificate of appealability should issue with respect to any of Petitioner's claims. See 28 U.S.C. § 2253(c)(2) ("A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right."); see also *Lucidore v. New*

¹ The Court notes that the petitioner's copy of the Report-Recommendation was returned on June 8, 2009 as "Refused" by the petitioner. See *Dkt. No. 21*.

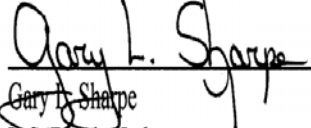
York State Div. of Parole, 209 F. 3d 107, 112 (2d Cir. 2000) *cert. denied* 531 U.S. 873 (2000), and it is further

ORDERED, that the Clerk of the Court is directed to close this case, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: June 25, 2009
Albany, New York



Gary L. Sharpe
U.S. District Judge